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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,612

06/10/2005

Petrus Theodorus Jutte

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

RICHARDSON, CHRISTOPHER J

ART UNIT

PAPER NUMBER

4178

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/538,612	<b>Applicant(s)</b> JUTTE, PETRUS THEODORUS	
	<b>Examiner</b> Christopher J. Richardson	<b>Art Unit</b> 4178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/10/05, 02/09/06</u> .                                      | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Objections***

2. Claim 3 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Examiner assumes, for prosecution, that claims 2 and 3 should be reversed such that claim 3 is dependent upon claim 1 and that claim 2 is dependent upon claim 3.

### ***Claim Rejections - 35 USC § 112***

3. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Examiner fails to see how the order of magnitude of said angle is  $45^{\circ} \pm 1$  when claim 2, which claim 3 is dependent upon, claims that the order of magnitude of said angle is  $45^{\circ}$ .

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,6,7,8,9 are rejected under 35 U.S.C. 102(b) as being anticipated by Uchiyama (US 6,163,409).

Regarding Claim 1, Uchiyama teaches an apparatus comprising an optical head for reading and/or writing data in an optical carrier having a circular shape, comprising tracks wound round the center of the carrier (Column 1 lines 5-11), this apparatus comprising:

an optical assembly constituting said head for providing a light spot onto the carrier (Fig 4 element 200), having a main light path direction defined by the direction of the light emitted by a first laser device (Fig 4 element 18) and/or by reflecting mirror devices (Fig 4 element 15), and an exit pupil (Fig 1 element 19),

a moving part for moving said optical head (Fig 3 elements 202,203,204,205) in a moving direction which is perpendicular to the tracks (Fig 5 elements W1 and W2), the light path direction and the moving direction enclosing an angle for achieving adequate light intensity at the level of said exit pupil (Fig 5, angle created between W1 and W2 and dotted line coming out of element 11).

Regarding Claim 6, Uchiyama teaches wherein a beam shaper is provided in the light path of the laser (Fig 6A element 14).

Regarding Claim 7, Uchiyama teaches wherein a second laser device is provided (Fig 1 element 28).

Regarding Claim 8, Uchiyama teaches a method of reading and/or writing an optical data carrier (Column 1 lines 5-11), comprising the step of:

providing an angle between a main light path direction of an optical head and tracks which are fitted in the data carrier, so as to satisfy requirements for reading and/or writing this optical data carrier (Fig 5, angle created between W1 and W2 and dotted line coming out of element 11).

Regarding Claim 9, Uchiyama teaches an optical head suited for an apparatus as claimed in claim 1 (Fig 3 element 200).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2,3,5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchiyama (US 6,163,409).

Regarding Claim 2, Uchiyama teaches an apparatus as claimed in claim 1.

Uchiyama is silent wherein the order of magnitude of said angle is  $45^\circ$  as Figure 5 shows an angle created between the light path direction and the moving direction that appears to be around  $45^\circ$  but fails to disclose the exact degree amount of the angle created.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to try and make the angle created by the light path direction and the moving direction equal to  $45^\circ$  as Uchiyama already teaches that an angle must be created by the light path direction and the moving direction for the recording/reproducing of an optical disc.

Regarding Claim 3, Uchiyama teaches an apparatus as claimed in claim 2.

Uchiyama is silent wherein the order of magnitude of said angle is  $45^\circ \pm 1$  as Figure 5 shows an angle created between the light path direction and the moving direction that appears to be around  $45^\circ$  but fails to disclose the exact degree amount of the angle created.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to try and make the angle created by the light path direction and the moving direction equal to  $45^\circ \pm 1$  as Uchiyama already teaches that an angle must be created by the light path direction and the moving direction for the recording/reproducing of an optical disc.

Regarding Claim 5, Uchiyama teaches an apparatus as claimed in claim 1, suitable for optical carriers of the DVD recordable type (Column 1 lines 60-61),

Uchiyama is silent wherein the spot is a diagonal spot having a 45° orientation with regard to the track direction as Figure 5 shows an angle created between the light path direction and the moving direction that appears to be around 45° but fails to disclose the exact degree amount of the angle created.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to try and make the angle created by the light path direction and the moving direction equal to 45° as Uchiyama already teaches that an angle must be created by the light path direction and the moving direction for the recording/reproducing of an optical disc.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uchiyama (US 6,163,409) in view of applicants admitted prior art (AAPA: Specification page 5 lines 23-25).

Regarding Claim 4, Uchiyama teaches an apparatus as claimed in claim 1. Uchiyama does not teach wherein said angle is given by a correct illumination of said exit pupil, considering that a diagonal oval spot is required for a processing of data on said carrier.

AAPA does teach wherein said angle is given by a correct illumination of said exit pupil, considering that a diagonal oval spot is required for a processing of data on said carrier (Specification page 5 lines 23-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Uchiyama with AAPA for the purpose of recording onto a CDR (W).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Richardson whose telephone number is 571-270-3439. The examiner can normally be reached on M-F, alternate Fridays off, 7:30-5:00 est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hai Tran can be reached on 571-272-7305. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

C.J.R.  
12/11/2007

/Hai Tran/  
Supervisory Patent Examiner, Art Unit 4178